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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/511,839	10/25/2004	Thomas Lenzing	10191/3498	4615
26646	7590	01/27/2006	EXAMINER	
KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004				MCCALL, ERIC SCOTT
		ART UNIT		PAPER NUMBER
		2855		

DATE MAILED: 01/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/511,839	LENZING ET AL. <i>(PM)</i>	
	<b>Examiner</b> Eric S. McCall	<b>Art Unit</b> 2855	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 25 October 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 9-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 9-17 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 25 October 2004 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

**DEVICE FOR DETERMINING AT LEAST ONE  
PARAMETER OF A MEDIUM FLOWING IN A LINE**

**FIRST OFFICE ACTION**

**INFORMATION DISCLOSURE STATEMENT**

The Examiner notes that the information disclosure statement filed on Oct. 25, 2004 has included no copies of the documents cited thereon and thus fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

**DRAWINGS**

The drawings are objected to because Figure 2 is unclear. Fig. 2 is set forth as being the top view of Fig. 1 but uncertainty exists as to how Fig. 2 is the top view of Fig. 1.

Further complicating matters is the fact that element 18 in Fig. 1 points to a flow direction but in Fig. 2 element 18 is part of a wall.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the Examiner, the Applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

**CLAIMS**

**35 U.S.C. § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 9-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Renninger et al. (6,915,682).

The applied reference has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention “by another,” or by an appropriate showing under 37 CFR 1.131.

With respect to claim 9, Renninger et al. teach a device for determining at least one parameter of a medium flowing in a line, the parameter including an intake air mass of an internal combustion engine, the device comprising:

a part (6) which has at least one measuring channel (30) to conduct at least one partial flow of the medium flowing in the line in a main flow direction (18) and which is insertable into the line with a predetermined alignment with respect to the main flow direction (Fig. 3); and

at least one measuring element (9) situated in the measuring channel to determine the at least one parameter;

wherein in the part, a channel structure is formed having an input region (27) for an entry of a partial flow of the medium, and having a measuring channel (30) branching off from the input region, the input region having a separation zone having a separation opening (33), at least two projections (37/69) protruding from mutually opposite interior walls of the input region into the input region.

With respect to claim 10, the mutually facing ends of the at least two projections of Renninger et al. are separated from each other by a gap (ie. the area between projections 37 and 69) as claimed.

With respect to claim 11, the two projections of Renninger et al. are in mirror symmetry to each other as claimed.

With respect to claim 12, the two projections of Renninger et al. are situated in the area of an opening of the input region facing the main flow direction and protrude transversely to the main flow direction into the input region as claimed (Fig. 3).

With respect to claim 13, the surfaces of the two projections of Renninger et al. face the main flow direction and are at least partially beveled or curved relative to the main flow direction as claimed (Fig. 3).

With respect to claims 14 and 15, Renninger et al. set forth that the separation zone includes a separation channel having a throttle structure and discharges into the separation opening (33 and Fig. 3).

With respect to claims 16 and 17, Renninger et al. suggest a throttle structure that is partially formed by a rib (69) situated at an inner wall of the separation channel and that runs in the direction of separation (Fig. 3).

**CITED DOCUMENTS**

The Applicant's attention is directed to the enclosed "PTO-892" form for the prior art documents made of record at the time of this office action.

**CONTACT INFORMATION**

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Eric S. McCall whose telephone number is (571) 272-2183.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Eric S. McCall  
Primary Examiner  
Art Unit 2855  
Jan. 23, 2006